

AMENDED IN ASSEMBLY AUGUST 7, 2013

AMENDED IN ASSEMBLY JUNE 18, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE APRIL 24, 2013

SENATE BILL

No. 176

**Introduced by Senator Galgiani
(Coauthors: Senators Cannella and Correa)**

February 6, 2013

An act to amend Sections 11344.1, 11346, and 11346.45 of the Government Code, relating to administrative procedures.

LEGISLATIVE COUNSEL'S DIGEST

SB 176, as amended, Galgiani. Administrative procedures.

Existing law governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law, including procedures relating to increased public participation in the adoption, amendment, and repeal of these regulations. Existing law specifically requires a state agency proposing to adopt regulations, prior to publication of a notice of proposed adoption, amendment, or repeal of a regulation, to involve parties who would be subject to the proposed regulations in public discussions regarding those proposed regulations, when the proposed regulations involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period. Existing law requires the office to provide for the publication of the California Regulatory Notice Register and to include specified information in the register, including notices of proposed action prepared

by regulatory agencies, a summary of regulations filed with the Secretary of State, and a summary of regulation decisions issued, as specified.

This bill would require the office to allow electronic submission to the office by a state agency of notices required to be published and information required to be submitted pursuant to specified provisions of existing law. The bill would also expand the public discussion requirement described above to require a state agency proposing to adopt regulations, prior to publication of a notice of proposed adoption, amendment, or repeal of a regulation, to involve parties that would be subject to the proposed regulations in public discussions regarding those proposed regulations, without regard to the complexity or number of proposals.

Existing law authorizes an agency that is considering adopting, amending, or repealing a regulation to consult with interested persons before initiating regulatory action.

This bill would instead require such an agency to *make a reasonable effort to consult with interested persons before who would be subject to the proposed regulation, or their representatives, prior to initiating regulatory action, as provided.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11344.1 of the Government Code is
- 2 amended to read:
- 3 11344.1. The office shall do all of the following:
- 4 (a) Provide for the publication of the California Regulatory
- 5 Notice Register, which shall be an official publication of the State
- 6 of California and which shall contain the following:
- 7 (1) Notices of proposed action prepared by regulatory agencies,
- 8 subject to the notice requirements of this chapter, and which have
- 9 been approved by the office.
- 10 (2) A summary of all regulations filed with the Secretary of
- 11 State in the previous week.
- 12 (3) Summaries of all regulation decisions issued in the previous
- 13 week detailing the reasons for disapproval of a regulation, the
- 14 reasons for not filing an emergency regulation, and the reasons for
- 15 repealing an emergency regulation. The California Regulatory

1 Notice Register shall also include a quarterly index of regulation
2 decisions.

3 (4) Material that is required to be published under Sections
4 11349.5, 11349.7, and 11349.9.

5 (5) Determinations issued pursuant to Section 11340.5.

6 (b) Establish the publication dates and manner and form in
7 which the California Regulatory Notice Register shall be prepared
8 and published and ensure that it is published and distributed in a
9 timely manner to the presiding officer and rules committee of each
10 house of the Legislature and to all subscribers.

11 (c) Post on its Internet Web site, on a weekly basis:

12 (1) The California Regulatory Notice Register. Each issue of
13 the California Regulatory Notice Register on the office's Internet
14 Web site shall remain posted for a minimum of 18 months.

15 (2) One or more Internet links to assist the public to gain access
16 to the text of regulations proposed by state agencies.

17 (d) Permit a state agency to submit to the office as an electronic
18 communication, as defined in Section 11340.85, a notice required
19 to be published pursuant to subdivision (a) and Section 11346.4,
20 and the information required to be submitted to the office pursuant
21 to Sections 11346.2, 11346.9, and 11347.3.

22 SEC. 2. Section 11346 of the Government Code is amended
23 to read:

24 11346. (a) It is the purpose of this chapter to establish basic
25 minimum procedural requirements for the adoption, amendment,
26 or repeal of administrative regulations. Except as provided in
27 Section 11346.1, the provisions of this chapter are applicable to
28 the exercise of any quasi-legislative power conferred by any statute
29 heretofore or hereafter enacted, but nothing in this chapter repeals
30 or diminishes additional requirements imposed by any statute. This
31 chapter shall not be superseded or modified by any subsequent
32 legislation except to the extent that the legislation shall do so
33 expressly.

34 (b) (1) (A) An agency that is considering adopting, amending,
35 or repealing a regulation shall *make a reasonable effort to* consult
36 with interested persons ~~before~~ *who would be subject to the*
37 *proposed regulation, or their representatives, prior* initiating
38 regulatory action pursuant to this article.

1 (B) *An agency shall include in its rulemaking record a list of*
2 *interested persons, or their representatives, who were consulted*
3 *pursuant to subparagraph (A).*

4 (2) *If an agency does not or cannot comply with paragraph (1),*
5 *it shall state the reasons for noncompliance with reasonable*
6 *specificity in the rulemaking record.*

7 SEC. 3. Section 11346.45 of the Government Code is amended
8 to read:

9 11346.45. (a) In order to increase public participation and
10 improve the quality of regulations, a state agency proposing to
11 adopt regulations, prior to publication of the notice required by
12 Section 11346.5, shall involve parties that would be subject to the
13 proposed regulations in public discussions regarding those
14 proposed regulations.

15 (b) This section does not apply to a state agency in any instance
16 where that state agency is required to implement federal law and
17 regulations for which there is little or no discretion on the part of
18 the state to vary.

19 (c) If the agency does not or cannot comply with subdivision
20 (a), it shall state the reasons for noncompliance with reasonable
21 specificity in the rulemaking record.

22 (d) This section shall not be subject to judicial review or to
23 Section 11349.1.